

David A. Brooks Associate Counsel Law Department

August 3, 2017

VIA EMAIL AND REGULAR MAIL

Ann Finnegan, Life Scientist U.S. Environmental Protection Agency, Region 2 Pesticides and Toxic Substances Branch 2890 Woodbridge Avenue, MS-105 Edison, New Jersey 08837

Re:

In the Matter of Consolidated Edison Company of New York, Inc.

U.S. E.P.A. Docket No. TSCA-02-2017-9201

Dear Ms. Finnegan:

Pursuant to the Consent Agreement and Final Order, Consolidated Edison Company of New York, Inc. made a payment of \$82,275 to the United States Environmental Protection Agency on August 2, 2017 by electronic funds transfer in connection with the above referenced matter.

Very truly yours,

David A. Brooks

cc:

Lynn L. Bergeson, Esq. Andrea Schmitz Carolyn W. Jaffe, Esq. (all via e-mail)



David A. Brooks Associate Counsel Law Department

July 7, 2017

VIA FEDERAL EXPRESS

Ms. Ann Finnegan
United States Environmental Protection Agency – Region 2
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue – MS105
Edison, NJ 08837

Re: In the Matter of Consolidated Edison Company of New York, Inc. U.S. EPA Docket No. TSCA-02-2017-9201

Dear Ms. Finnegan:

Enclosed is the Consent Agreement and Final Order in connection with the above referenced matter executed on behalf of Consolidated Edison Company of New York, Inc.

Thanks for your attention to this matter.

Very truly yours,

David A. Brooks



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2 2890 WOODBRIDGE AVE. EDISON, NEW JERSEY 08837

JUL 1 7 2017

<u>CERTIFIED MAIL</u> RETURN RECEIPT REQUESTED

Andrea Schmitz, Vice President Environment, Health and Safety Consolidated Edison Company of New York, Inc. 4 Irving Place New York, NY 10003-3598

Re: Consent Agreement Issued Under the Toxic Substances Control Act - TSCA-02-2017-9201

Dear Ms. Schmitz:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Acting Regional Administrator of the U.S. Environmental Protection Agency, Region 2.

Please note that the thirty (30) day period for payment of the civil penalty commenced as of the date this Consent Agreement was signed by the Regional Administrator. Please arrange for payment of this penalty according to the instructions given within the enclosed document under "Terms of Consent Agreement". Further, please ensure that a copy of the payment check or other reasonable proof that such payment has been made is promptly mailed to:

Ann Finnegan, Life Scientist Pesticides and Toxic Substances Branch 2890 Woodbridge Avenue, MS-105 Edison, NJ 08837

Please contact Ms. Finnegan at (732) 906-6177, or by electronic mail at finnegan.ann@epa.gov, should you have any questions regarding this matter.

Sincerely,

John Gorman, Chief Pesticides and Toxic Substances Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2

JUL 1 7 2017

In the Matter of

Consolidated Edison Company of New York, Inc.,

Respondent.

Proceeding under the Toxic Substances Control Act, 15 USC §§ 2601-2697 et seq. As amended ("TSCA") CONSENT AGREEMENT
AND
FINAL ORDER

Docket No. TSCA-02-2017-9201

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (hereinafter "Consolidated Rules"), provide in 40 C.F.R.§ 22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 (hereinafter "EPA" or "Complainant"), alleges that Consolidated Edison Company of New York, Inc. (hereinafter "Respondent") violated Section 6(e) of TSCA, 15 U.S.C.§ 2605(e), and the regulations promulgated pursuant to that Section, set forth at 40 C.F.R. Part 761, relating to polychlorinated biphenyls ("PCBs") and Section 15(1) of TSCA, 15 U.S.C.§ 2614(1).

EPA and Respondent agree that settling this matter by entering into this CAFO pursuant to 40 C.F.R. § 22.13(b) and 40 C.F.R. §§ 22.18(b)(2) and (3), is an appropriate means of resolving

this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated findings of fact or conclusions of law have been made. The following constitute Complainant's findings of fact and conclusions of law.

FINDINGS OF FACT

- Respondent is Consolidated Edison Company of New York, Inc.
- 2. On July 3, 2016, September 20, 2016, and November 7, 2016, Respondent notified EPA of certain facts and circumstances that may have constituted violations of certain provisions of the PCB regulations at 40 CFR Part 761 regarding the storage, manifesting, and disposal of PCB waste.
- 3. By letter dated July 27, 2016, Cycle Chem, Inc. of Elizabeth, New Jersey (hereinafter "Cycle Chem") notified EPA that Respondent had shipped PCB waste to them without fully identifying it on the manifest.
- 4. As a result of EPA's review of the information described in paragraphs 2 and 3, above, EPA determined that Respondent had committed several violations of the regulations at 40 CFR Part 761 regarding the storage, manifesting, and disposal of PCB waste, as described in paragraphs 5 through 9, below.
- 5. During the period November 23, 2015 to September 19, 2016, Respondent stored PCB bulk product waste (coal tar wrap) at Respondent's College Point Service Center in Flushing, New York for more than the 180 days allowed under the extended storage approval issued to Respondent by EPA Region 2 on September 21, 2012 (hereinafter "Respondent's extended storage approval") pursuant to 40 C.F.R. § 761.65(c).
- 6. On or about June 25, 2016, Respondent shipped PCB waste from its Farrington Street Flush Truck Waste Transfer Facility in Flushing, New York to Clean Earth of North Jersey (hereinafter "Clean Earth") in Kearny, New Jersey for off-site disposal without identifying the material as PCB waste on EPA Manifest form 8700-22 in accordance with the specifications and requirements of 40 C.F.R. § 761.207(a).
- 7. On or about July 16, 2016 to July 19, 2016, Respondent shipped PCB remediation waste from the clean out of several of Respondent's underground structures located within its service territory in the Bronx, New York and Westchester County, New York to Cycle Chem for

off-site disposal without identifying the material as PCB waste on EPA Manifest form 8700-22 in accordance with the specifications and requirements of 40 C.F.R. § 761.207(a).

- 8. On or about October 13, 2016 to October 20, 2016, Respondent shipped PCB remediation waste from the clean out of several of Respondent's underground structures located within its service territory in Brooklyn and Queens, New York to Clean Earth for off-site disposal without identifying the material as PCB waste on EPA Manifest form 8700-22 in accordance with the specifications and requirements of 40 C.F.R. § 761.207(a).
- 9. On or about October 21, 2016, the PCB remediation waste described in paragraph 8, above, was disposed of at Waste Management Inc.'s GROWS Landfill facilities located in Tullytown and Morrisville, Pennsylvania in a manner not authorized under 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iii).
- 10. On February 15, 2017, the parties met for an informal settlement conference prior to the issuance of any enforcement action.

CONCLUSIONS OF LAW

- 1. Respondent, as the owner and/or operator of the facilities which are the subject of this CAFO, is subject to the regulations and requirements pertaining to PCBs and PCB Items promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and set forth at 40 C.F.R. Part 761.
 - 2. Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.
- 3. Storage of PCB bulk product waste for more than 180 days is a violation of Respondent's extended storage approval and the regulations at 40 C.F.R. § 761.65(c), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e) and 2614(1)(C).
- 4. Failure to identify PCB waste submitted for off-site disposal on EPA Manifest form 8700-22 is a violation of 40 C.F.R.§ 761.207(a), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C.§§ 2605(e) and 2614(1)(C).
- 5. Disposal of PCB remediation waste in a manner not authorized by 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iii) is a violation of 40 C.F.R. § 761.61(a), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e) and 2614(1)(C).

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

- 1. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to commence a civil administrative proceeding for the violations alleged in the "Conclusions of Law" section, above; (b) neither admits nor denies the specific factual allegations contained in the "Findings of Fact" section, above; and (c) neither admits nor denies the assertions set forth in the "Conclusions of Law" section, above.
- 2. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **EIGHTY TWO THOUSAND TWO HUNDRED AND SEVENTY FIVE DOLLARS** (\$82,275.00) to the "Treasurer of the United States of America". The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center PO Box 979077 St. Louis, MO 63197-9000

Alternatively, payment may be made by Electronic Funds Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment;
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045;
- 3) Account: 68010727;
- 4) ABA number: 021030004;
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency";
- 6) Name of Respondent; and
- 7) Docket Number.

Payment must be <u>received</u> at the above address (or account of EPA) on or before **30 calendar** days from the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date").

- a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.
- b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
- 3. Full payment of the penalty described in paragraph 3, above, shall fully and finally resolve Respondent's liability for federal civil penalties for only the violation(s) and fact(s) described in the "Findings of Fact" and "Conclusions of Law" sections, above. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
- 4. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
- 5. Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the assertions contained in the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above, or on any allegations arising thereunder.

- 6. Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action brought: a) by the United States, including EPA, to enforce this Consent Agreement or Final Order; or b) to enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order, and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order. Respondent further waives any right it may have to appeal this Consent Agreement and the accompanying Final Order.
- 7. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.
- 8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.
 - 9. Each party shall bear its own costs and fees in this matter.
- 10. Any responses, documentation, and other communications submitted to EPA in connection with this Consent Agreement shall be sent to:

Ann Finnegan, Life Scientist U.S. Environmental Protection Agency, Region 2 Pesticides and Toxic Substances Branch 2890 Woodbridge Avenue, MS-105 Edison, NJ 08837

Unless the above-named EPA contact is later advised otherwise in writing, EPA shall address any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent at the following address:

Andrea Schmitz, Vice President Environment, Health and Safety Consolidated Edison Company of New York, Inc. 4 Irving Place New York, NY 10003-3598 11. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:	BY: Carolin W Juffer Consolidated Edison Company of New York, Inc.
	NAME: <u>CAROLYN</u> W. JAFFE (PLEASE PRINT)
	TITLE: Associate General Couns
	DATE: 7/7/17
COMPLAINANT:	1 Korte Lon
	Dore LaPosta, Director Division of Enforcement and
	Compliance Assistance U.S. Environmental Protection
•	Agency, Region 2
	290 Broadway New York, New York 10007
	DATE: 7/12/17

In the Matter of Consolidated Edison Company of New York, Inc. Docket Number TSCA-02-2017-9201

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of <u>In the Matter of Consolidated Edison Company of New York, Inc.</u>, bearing Docket Number TSCA-02-2017-9201. Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, ratified, incorporated into and issued, pursuant to the authority of 40 C.F.R. § 22.18(b)(3), as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2 (40 C.F.R. § 22.31(b)).

DATE

Catherine McCabe

Acting Regional Administrator

U.S. Environmental Protection Agency, Region 2

290 Broadway

New York, New York 10007

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



REGION 2 2890 WOODBRIDGE AVENUE EDISON, NEW JERSEY 08837-3679

JUN 1 4 2017

<u>CERTIFIED MAIL</u> RETURN RECEIPT REQUESTED

Andrea Schmitz, Vice President Environment, Health and Safety Consolidated Edison Company of New York, Inc. 4 Irving Place New York, NY 10003-3598

Re:

Consent Agreement Under the Toxic Substances Control Act

Docket Number TSCA-02-2017-9201

Dear Ms. Schmitz:

By letter dated July 27, 2016, 2016, Cycle Chem, Inc. (Cycle Chem) reported to the U.S. Environmental Protection Agency (EPA) that Consolidated Edison Company of New York, Inc. (ConEd) submitted to them waste which contained regulated levels of polychlorinated biphenyls (PCBs) but was not fully identified as such on the manifest. Around this same time period, ConEd reported to EPA several other issues involving their storage, manifesting, and disposal of PCBs. Based upon our review of the information provided by Cycle Chem and ConEd, EPA determined that ConEd violated the Toxic Substances Control Act (TSCA) and the regulations relating to the storage, manifesting, and disposal of PCBs, codified at 40 C.F.R. Part 761 and promulgated under authority of Section 6 of TSCA, 5 U.S.C. § 2605.

Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, EPA is authorized to commence civil administrative actions for the assessment of civil penalties for violations of the above cited regulations. However, our Consolidated Rules of Practice, at 40 C.F.R. § 22.13(b), now permit the simultaneous commencement and conclusion of a proceeding without the issuance of a complaint. On February 15, 2017, representatives of ConEd met with EPA to discuss this approach. Based upon that conversation, we proposed, subject to final EPA approval, to settle this matter for \$82,275. A Consent Agreement and Final Order (CAFO) is enclosed to formalize this settlement.

If you agree with this settlement offer, please sign the CAFO provided and return it for further processing within twenty (20) days of receipt to the attention of Ms. Ann Finnegan at the following address:

United States Environmental Protection Agency - Region 2 Pesticides and Toxic Substances Branch 2890 Woodbridge Avenue - MS105 Edison, NJ 08837 A fully executed copy of this document with all signatures will be mailed to you upon issuance. If we are unable to reach an expeditious settlement, EPA is prepared to issue an Administrative Complaint in this matter.

For your information, the EPA PCB Penalty Policy can be found on EPA's website at http://www2.epa.gov/enforcement/polychlorinated-biphenyls-pcb-penalty-policy. Please note that the penalties described in this original policy have been adjusted under the Civil Monetary Penalty Inflation Adjustment Rule (82 Fed. Reg. 3633 (January 12, 2017). The Consolidated Rules of Practice (40 C.F.R. Part 22) can be found on the EPA web site at http://www.epa.gov/alj/rules-practice-proceedings-administrative-law-judges. If applicable, EPA's Supplemental Environmental Projects (SEP) Policy can be found on the EPA website at http://www.epa.gov/enforcement/supplemental-environmental-projects-seps. Please also consult the notice at http://www.gpo.gov/fdsys/pkg/CFR-2009-title17-vol2/xml/CFR-2009-title17-vol2-sec229-103.xml for information on your duty regarding the Securities and Exchange Commission.

If you have any questions regarding the penalty determination or the settlement process, please contact Ms. Finnegan at (732) 906-6177 or by electronic mail at finnegan.ann@epa.gov.

Sincerely,

Dore LaPosta, Director Division of Enforcement and Compliance Assistance

Enclosure

Administrative Case Initiation Data Form Draft

EA #: Date Entered: ORC Branch:

○ Yes ● No

Complaint Stage (at time of submittal)

Final

NextGen element included in final order/settlement?

(at time of Submittal)			
Information			
Administrative Docket or Index Number	TSCA-02-20	017-9201	
Enforcement Action Name Additional Respondents, PRPs, or Defendants	Consolidate	d Edison Company of New York, Inc.	
Site(s):			
Enforcement Action Type Primary Statute/Section Violated Other Statutes/Sections CFR Citations:		ion for Penalty 207(a), 40 CFR 761.61, 40 CFR761.65	
Priority Activity	⊠ Core Pric	prity	
EPA Lead Attorney EPA Program Contact	Ann Finnegan	DECA-PTSB-TS	(office) 732-906-6177
Violation Type	Violation of PCB rule	es	
Was this action taken in response to Was this a Multi-Media action? (chois the community impacted by the a Respondent(s)/Defendant(s)?	eck all that apply)		○ Yes ● No○ Yes ● No○ Yes ● No
Do you have reason to believe that	environmental justice	concerns may be raised?	○ Yes ● No

Was Voluntary Disclosure Policy applied to this action?

○ Yes ● No

In July 2016, Cycle Chem notified EPA that ConEd had shipped them PCB waste that was not fully identified on the manifes waste was improperly disposed, but Cycle Chem was held liable and has since paid a penalty. In July 2016, ConEd notified they had inadvertently shipped similar PCB waste to Clean Earth without identifying it on the manifest - these wastes were diluted, and ultimately disposed in an unauthorized facility. EPA is not seeking removal since the concentrations were non-time of disposal. In September 2016, ConEd notified EPA that they had stored PCB waste in excess of the time allowed by regulations. Respondent did not invoke the Audit Policy, since it would not apply. The self-disclosure reductions available penalty policy were applied. EPA issued a Show Cause letter with a CAFO included which reflected a penalty of \$82,275.

Proposed Penalty

Proposed Cost Recovery

Is this an amended complaint? O Yes No

Date Complaint/Agreement

\$129,000.00 (amount sought)

\$0.00 (amount sought)

Case Conclusion Data Sheet

Draft

EA #: Date Entered: ORC Branch:

Information				
Case and Facility Information Court or Administrative Docket or Index Number	TSCA-02	-2017-9201		
Enforcement Action Name Additional Respondents, PRPs, or Defendants	Consolida	ated Edison Company of New York, Inc		
Site(s):				
Enforcement Action Type Primary Statute/Section Violated Other Statutes/Sections	TSCA 16	Action for Penalty		
CFR Citations:	40 CFR 76	61.207(a), 40 CFR 761.61, 40 CFR761.65		
Priority Activity	⊠ Core F	Priority		
EPA Lead Attorney EPA Program Contact	Ann Finnegan	DECA-PTSB-TS	(office) 732-9	06-6177
Violation Type	Violation of PCB	rules		
Was this action taken in response to	o a violation found	through an Inspection?	O Yes	No
Does the action involve Integrated F Municipal Stormwater and Wastewa	Planning (IP) remedater Planning Appro	lies consistent with EPA's Integrated pach Framework?	○ Yes ●	No
Was this a Multi-Media action? (ch		-	○ Yes ●	No
Is the community impacted by the a Respondent(s)/Defendant(s)?	llleged violation(s)	different than the location of the	○ Yes ●	No
Do you have reason to believe that	environmental just	ce concerns may be raised?	· O Yes	No
NextGen element included in final of	order/settlement?		○ Yes ●	No
Was Voluntary Disclosure Policy ap	oplied to this action	?	○ Yes ●	No

Was Alternative Dispute Resolution	n used in this action?	○ Yes No
Conclusion Type	Administrative Penalty Order DATES Milestones: DECA tracks some be tracked in DATES, please indicate. Does this action have DATES milestones	milestones in the DATES database. If this
Date of Final Order Lodging Date of Final Order Estimated Termination Date	Does this action have by the minoscones	
Resolution Code	Final Order with Penalty	
Complying Action		
	Complyin	ng Action
Removal and Restoration		
Total Cost: \$0.00		
Туре		
Units		
Media		
Туре		
Units		
Media		
Туре		

Reduction of Ongoing Releases

Units Media

Total Cost: \$0.00	
Туре	
Units	
Media	
Туре	
Units	
Media	
Туре	
Units	
Media	
Prevention of Future F	Releases
Total Cost: \$0.00 Type	
Units	
Media	
Lt. S S S S	
Туре	
Units	
Media	
Туре	

Units		
Media		
Work Practices		
Total Cost: \$95,000.00		
Туре	Manifesting	
(Enter additional types	Recordkeeping	
on separate lines)	☐ Testing/Sampling	
Injunctive Relief - Old Met	od	
	Injunctive Relief/Complying Action	
	Direct Action to Reduce, Eliminate, or Treat Pollutants	
Direct Environmental Reduction	De la districta de Managa Manda Chronina de Drouget Delegano/Evnequires	
	Preventative Actions to Manage Waste Streams or Prevent Releases/Exposures	
Preventative	Quantitative Environmental Impact	
SEP		

SEP(s)		
View: SEPsByParentUNII		
Penalty		
Penalty		
Final Assesed Penalty (Not include EPA State and Local Government	ling value of any SEP) \$82,275.00 \$0.00	
Cost Recovery		
CERCLA Cost Recovery		
Amount of cost recover awarded EPA	\$0.00	
State and Local Government	\$0.00	
Summary		
Case Summary In July 2016, Cycle Chem notified	EPA that ConEd had shipped them PCB waste	e that was not fully identified on the manif

disposed, but Cycle chem was held laible and has since paid a penalty. In July 2016, ConEd notified EPA that they had in waste to Clean Earth without identifying it on the manifest - these wastes were solidified, diluted, and ultimately disposed is not seeking removal since the concentrations were non-detect at the time of disposal. In September 2016, ConEd notif

PCB waste in excess of the time allowed by the regulations. Respondent did not invoke the Audit Policy, since it would no reductions available in the PCB penalty policy were applied. EPA issued a CAFO which reflected a penalty of \$82,275.

Self Disclosure

Self Disclosure Information

Disclosure under Audit Policy? Disclosure under EPA's Small ○ Yes ● No **Business Policy?**

○ Yes ● No

Enforcement Action Name: Consolidated Edison Company of New York (ConEd) Docket Number: TSCA-02-2017-9201

BRANCH CHIEF CHECKLIST		
Case Initiation and/or Case Conclusion Data Sheet(s) is Complete and Accurate [except for order/action signature date] and Attached	Yes	No
Small Business, Federal Facility, National or Regional Priority designations are included, as appropriate	Yes	No /(N.A)
EJ designation, including potential EJ concerns, are identified as appropriate	Yes	No
Was a Next Gen tool included in the settlement?	Yes	No.
If yes, please describe the Next Gen tool:		
If not, please describe why a Next Gen tool was not included:		
Penalty Calculations have been reviewed and are correct	(Yes)	No/N.A.
SEP included in settlement?	Yes	No/ N/A.
Does the SEP and/or settlement consider EJ/community concerns?	Yes	No (N.A.)
Please explain if there is a reason <u>EPA</u> does not want a SEP be developed and/or why a SEP is not included:		
Administrative burden Small environmental staff Timing of SEP completion Increase overall cost Expiration of ALJ deadline with enforcement case moving to litigation Can't identify a SEP Expedited settlement Other*		
*Explain reason for other: Responde or declined doing a SEP.		
Does SEP and/or settlement contain sustainability/P2 elements?	Yes	No N.A.
Environmental Benefit Calculations have been reviewed and are correct	Yes	Nort N.A.
Is this a Big Case?	Yes	No/ N.A.
Compliance Schedule information to be entered into the DECA "DATES" system within two weeks from effective date of CAFO	Yes	No
Respondent provided with IRS website on SEP tax deductibility (FAPO Only)	Yes	No (N.A.

Case Information, Penalty Calculations, and Environmental Benefit Calculations	Developed by (initial and date)	Reviewed by (initial and date)
Case Initiation and/or Case Conclusion Data Sheet(s)	AF 5/13/17	.50S6/6/12
Penalty Calculations	AF 5/ds	5656/6/1
Environmental Benefit Calculations (including "complying actions")	AF 5/18/17	5.540/17

Chillian of

	Enforcement Action Co	ncurr	ence S	heet	ORA
	for RA Sign	<u>ature</u>	•		LOG.
TO:	May 31, 2017				Ţ
10:	(Name, office symbol)	Initial	Date	Sign	Date
				Final Action	Final
1.	Ann Finnegan, DECA-PTSB-TS	WP	5/31/17	G/5	Action
2.	Susan Schulz, Chief, DECA-PTSB-TS	30	of de		
3.	John Gorman, Chief, DECA-PTSB	1.5	1.10		
4.	ORC (if applicable)		17		
5.	Kate Anderson DECA-DD (concurrence only)	im	4110112		
6. /	Dore LaPosta, DECA-D (concurrence only)	in	7/10/17		
7.	Catherine McCabe, DRA	1. Jak	ch 21	1/2	
Please	e return to DECA-PTSB-TS (Edison) for m	ailing to	Respon	dent	/
			•	CXZIS	and
8 .	Dore LaPosta, DECA-D (signature)			- 3/10 E	10
9.	Catherine McCabe, ORA-DRA (concurrence)			inf.	1217/31
PLEAS	E PDF AND SEND TO ERIN FLOTO FOLLOWING	DECA-DI	D SIGNAT	URE	
Please	e return to DECA-PTSB-TS (Edison) for m	ailing to	Respon	dent	

PCB Consent Agreement

Enforcement Action Name: Consolidated Edison of NY Docket Number: TSCA-02-2017-9201



EJSCREEN Report (Version 2016)

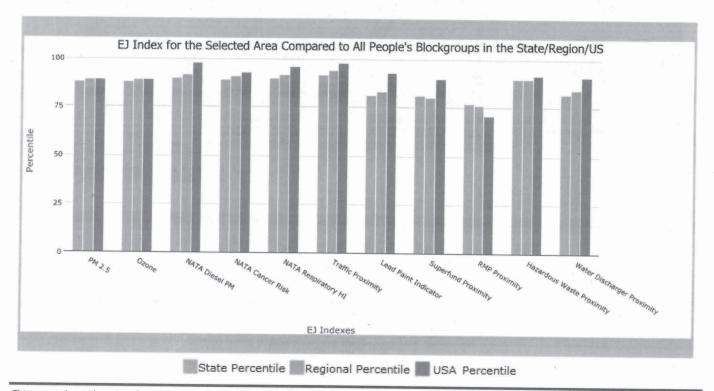


1 mile Ring Centered at 40.766884,-73.832931, NEW YORK, EPA Region 2

Approximate Population: 90,330 Input Area (sq. miles): 3.14

Farrington Flush Station (The study area contains 3 blockgroup(s) with zero population.)

Selected Variables	State Percentile	EPA Region Percentile	USA Percentile
EJ Indexes			
EJ Index for PM2.5	88	89	89
EJ Index for Ozone	88	89	89
EJ Index for NATA* Diesel PM	90	92	98
EJ Index for NATA* Air Toxics Cancer Risk	89	91	93
EJ Index for NATA* Respiratory Hazard Index	90	92	96
EJ Index for Traffic Proximity and Volume	92	94	98
EJ Index for Lead Paint Indicator	81	83	93
EJ Index for Superfund Proximity	81	80	90
EJ Index for RMP Proximity	77	76	71
EJ Index for Hazardous Waste Proximity ⁺	90	90	92
EJ Index for Water Discharger Proximity	82	84	91



This report shows the values for environmental and demographic indicators and EJSCREEN indexes. It shows environmental and demographic raw data (e.g., the estimated concentration of ozone in the air), and also shows what percentile each raw data value represents. These percentiles provide perspective on how the selected block group or buffer area compares to the entire state, EPA region, or nation. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the US population has a higher block group value than the average person in the location being analyzed. The years for which the data are available, and the methods used, vary across these indicators. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators. Please see EJSCREEN documentation for discussion of these issues before using reports.



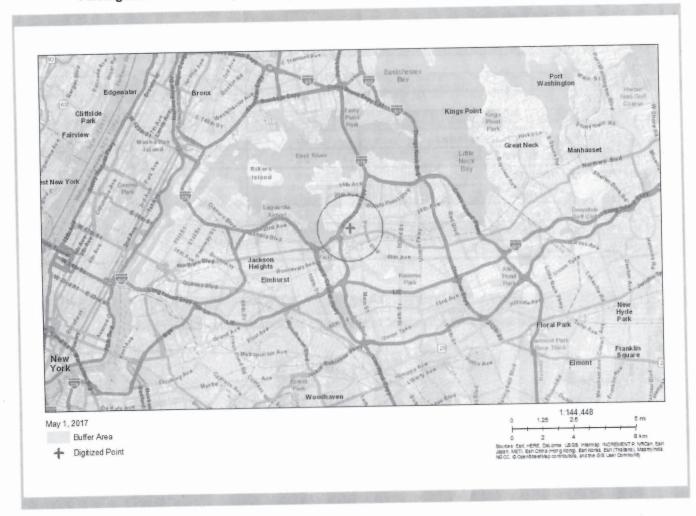
EJSCREEN Report (Version 2016)



1 mile Ring Centered at 40.766884,-73.832931, NEW YORK, EPA Region 2

Approximate Population: 90,330 Input Area (sq. miles): 3.14

Farrington Flush Station (The study area contains 3 blockgroup(s) with zero population.)



Sites reporting to EPA	
Superfund NPL	0
	0
Hazardous Waste Treatment, Storage, and Disposal Facilities (TSDF)	0
National Pollutant Discharge Elimination System (NPDES)	O .



EJSCREEN Report (Version 2016)



1 mile Ring Centered at 40.766884,-73.832931, NEW YORK, EPA Region 2

Approximate Population: 90,330 Input Area (sq. miles): 3.14

Farrington Flush Station (The study area contains 3 blockgroup(s) with zero population.)

Selected Variables		State Avg.	%ile in State	EPA Region Avg.	%ile in EPA Region	USA Avg.	%ile in USA
Environmental Indicators			,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,			grients	Table 18
Particulate Matter (PM 2.5 in µg/m³)	9.67	9.07	63	9.13	64	9.32	54
Ozone (ppb)	45.9	45.6	54	46.2	50	47.4	37
NATA* Diesel PM (µg/m³)	3.65	2.13	82	1.87	80-90th	0.937	95-100th
NATA* Cancer Risk (lifetime risk per million)	62	45	83	44	80-90th		95-100th
NATA* Respiratory Hazard Index	4.2	2.5	84	2.4	80-90th		95-100th
Traffic Proximity and Volume (daily traffic count/distance to road)	4800	2300	87	1800	90	590	97
Lead Paint Indicator (% Pre-1960 Housing)	0.5	0.57	40	0.52	45	0.3	75
Superfund Proximity (site count/km distance)	0.12	0.22	48	0.29	40	0.13	73
RMP Proximity (facility count/km distance)	0.059	0.2	19	0.24	17	0.43	12
Hazardous Waste Proximity* (facility count/km distance)	0.16	0.13	81	0.13	.80	0.11	83
Water Discharger Proximity (facility count/km distance)	0.28	0.59	56	0.53	58	0.31	73
Demographic Indicators						3.01	
Demographic Index	68%	38%	82	36%	83	36%	87
Minority Population	87%	43%	78	43%	80	37%	88
Low Income Population	48%	33%	76	30%	79	35%	73
Linguistically Isolated Population	49%	8%	98	8%	98	5%	99
Population With Less Than High School Education	26%	15%	80	14%	82	14%	83
Population Under 5 years of age	4%	6%	37	6%	37	6%	33
Population over 64 years of age	17%	14%	69	14%	70	14%	70

^{*} The National-Scale Air Toxics Assessment (NATA) is EPA's ongoing, comprehensive evaluation of air toxics in the United States. EPA developed the NATA to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that NATA provides broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. More information on the NATA analysis can be found at: https://www.epa.gov/national-air-toxics-assessment.

For additional information, see: www.epa.gov/environmentaljustice

⁺ The hazardous waste environmental indicator and the corresponding EJ index will appear as N/A if there are no hazardous waste facilities within 50 km of a selected location.

Finnegan, Ann

From:

Lynn L. Bergeson < lbergeson@lawbc.com>

Sent:

Wednesday, April 05, 2017 11:10 AM

To:

Finnegan, Ann

Cc:

David A. Brooks, Esquire

Subject:

ConEd

Attachments:

M18077 weight ticket.pdf; Cycle Chem Weight ticket.pdf

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC

2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037 T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

Explanation
of Billing

Cox Printers • (908) 928-1010 • Recorder # 88449 H1712P

CLEANGARTH

Poster, america, greener solutions.

MAN. NOM6335P2CJIC

TRANSPORTERCVCC

VEHICLE ID. VAC-188

DRIVER ON OFF

REMARKS: 827, 829, 828 788, 790, 789, 791, 793 792, 795, 794, 796, 797 798, 499, 800

WEIGH-TRONIX-

65420

IN

65420 LB

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66:24 PH 10/20/16

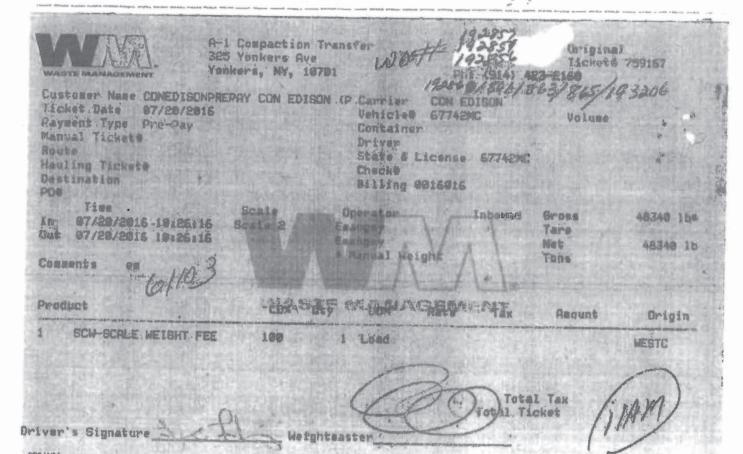
19660 WEIGHER



A-1 Compaction Transfer 325 Youkers Five Youkers, MY, 10701 6//03 ora Empty Tic PN1 (914) 423-2160

Origina) Ticket# 735804

Customer Name CONFISCAPREPAY CON EDISON (P Carrier CON EDISON Ticket Date 11/13/2015 Vehicles 67742MC Volume Payment Type Fre-Pay Container Manual Ticketh Driver Route State & License 57742MC Hauling Ticket# Checks Destination Billing 20016616 1707 Time Stale Operatur abound Gross 11/13/2015 07:54:35 Spale 1 Exonper Tare Out 11/13/2015 97:54:35 Changev 46289 15 * Manual May 944 Comments ex Froduci 1人》到 ·罗特拉· / 并 · 丁等 SCW SCALE HEIGHT FET 168 Total Tak Yotal Ticket priver's Eignster Enk believel gargness or A., 203 WM



4-5-17 Lynn Bergeson David (on Ed sent weigh tickets Con Ed to Cycle Chem "nilk Run"

WM ticket

thek 61103 67742 11/13/15 net 102800 16x empty touck 48340 lbs R11 truck 7/20/16 4.03 tons actual weight my chart Frem marifest Estimates -> coned paid For 4.03 tong um owns scale in Tonkers where weight was taken

4-5-17 Clean Earth is a sub-contactu to Clean Venture do not get a bill Forom Clean Earth, only CV (uned contracts TCIEST Ventbree CV contracts with CE with CChEm Con Ed has souved conteacts

/different parts of > will send 18>> Re-dected

to Lyn Bergeson Con Ed de reconic benefit into needed 3-13-2017 message Attachment E 4/3/17 * waste disposal was at Clean Earth, but the invoice I received is From Clean Venture (the transporter) dotes consect for transport not dispose! - need an invoice From Clean Earth that indicates it is For disposal current invoice is from CV (transporter) > would like good copies of manifest From Clarearth to GROWS, too need to Figure out total amount sent > total amounts don't make sense coned to cycle then total is 1744 pounds invoice says - tons

need: O good copies of manifests From Clean Earth to GROW S (2) clarify waste tens
to match #15 From manifests (3) cost From Clean Earth For disposal at Grows \$ -> OK need a little time but will Flad out she works it to make sense tou

Finnegan, Ann

From:

Lynn L. Bergeson < lbergeson@lawbc.com>

Sent:

Wednesday, April 05, 2017 4:49 PM

To: Subject:

Finnegan, Ann M18077 Manifests

Attachments:

SKM_554e17021411550_0001.pdf; SKM_554e17021411550_0003.pdf; SKM_

554e17021411550_0005.pdf; SKM_554e17021411550_0007.pdf; SKM_554e17021411550

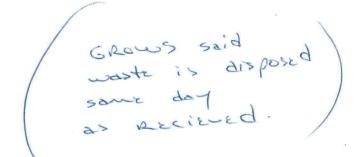
_0009.pdf; SKM_554e17021411550_0011.pdf; SKM_554e17021411550_0013.pdf

Ann,

Pursuant to our earlier conversation earlier today, appended are more legible copies of the manifests you requested.

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC

2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037 T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com





NON-HAZARDOUS MANIFEST



NON-HAZARDOUS MANIFEST	1. Generator's US EPA	A ID No.	2. Page 1	2. Page 1 of								
	1450991291	1129/105				1						
3. Generator's Mailing Address:					A Manife	st Number	1					
CLEAN EARTH OF NORTH JERSI	EY Ger	Generator's Site Address (If different than mailing):				A. Manifest Number		13560	0			
105-115 JACOBUS AVENUE					W	/MNA	512568					
KEARNY NJ 07032						B. State Generator's ID						
. Generator's Phone:					8 353	Service.						
973-344-4004												
5. Transporter 1 Company Name WMI	PA Hauling Co	6. US EP	A ID Number	a and the								
hart D	11 71					C. State Transporter's ID						
7. Transporter 2 Company Name	5 MEN	8. US EP	D. Transpo	D. Transporter's Phone								
		0. U3 EP	E State Tu									
Tographic according name 11					E. State Transporter's ID F. Transporter's Phone							
9. Designated Facility Name and Site Address TULLYTOWN RESOURCE RECOVERY FACILITY 200 BORDENTOWN ROAD		10. US E	10. US EPA ID Number				1. Halaporter's Filone					
			G. State Fa	G. State Facility ID								
TULLYTOWN, PA 19007						H. State Facility Phone						
PERMIT# 101494		MINISTER STREET		W135280		State I denity Filone						
CROME NORTH LANDS												
GROWS NORTH LANDFILL 1000 NEW FORD MILL ROAD												
MORRISVILLE, PA 19067												
PERMIT# 101680		DESCRIPTION OF THE PROPERTY OF		ALL ASS	F 784,22							
11. Description of Waste Materials		12. No.	Containers Type	13. Total Quantity	14. Unit Wt./Vol.	1.	Misc. Comm	ents				
a. Stabilized Waste					1150							
			1/	DT	43800	165	In-	27	6			
WM Pi	rofile # 034830			1 4 4 4 4			125	E 100				
b. We at theme												
				1407		Official Control						
WM Profile #												
c. Walterfamor					- Carlessors			tw				
				1.150	F TOLAN	TAVE VAL						
WM Profile #	THE PROPERTY OF							30.53				
d.					16472							
			7,00	1,588	T OV.	We detail						
WM Profile #	Water Profession States of		ale Move	Total Line		for the second	90000		313			
J. Additional Descriptions for Material	s Listed Above		K. Dispo	sal Location	guerra de la companya della companya							
			Cell									
			Grid				Level	1				
Special Handling Instructions and Ad	Iditional Information BO)X#		A STATE				-				
the state of the second second												
urchase Order #	North Control	EMERGENCY C	CONTACT / PHO	NE NO ·	Fileen Field C	973-344-4004			-			
6. GENERATOR'S CERTIFICATE:					Electivitied 2	773-344-4004						
hereby certify that the above-described	materials are not hazard	dous wastes as defined	by CFR Part 26	1 or any and	alicable state lav	u baya baan f	illir and an					
lescribed, classified and packaged and a	re in proper condition for	r transportation accord	ling to applicab	le regulation	ns.	v, nave been to	ny anu ac	curately				
JUSTIN P. FARA	man.	Signature "On beh	nalf of"	1	11		Month	Day	Ye			
7. Transporter 1 Acknowledgement of		fees	4 ** /	- tela			160	21	110			
Printed Name	A A	Signature		19								
o John Tire	7-11 -	Signature	X+1				Month	Day	Ye			
8. Transporter 2 Acknowledgement of I	Receipt of Materials		Description of				11 1	11	16			
Printed Name		Signature					March		1			
							Month	Day	Ye			
Certificate of Final Tax - 1/2:	-1											
9. Certificate of Final Treatment/Dispos												
certify, on behalf of the above listed trea egulations, permits and licenses on the c	arment facility, that to the	e best of my knowledg	ge, the above-d	escribed was	ste was manage	ed in compliance	e with all	applicable	e laws			
D. Facility Owner or Operator: Certifica		zardous materials cour	rad by this man	olfoct								
Printed Name	or receipt of normaz	Signature	red by this mai	mest.								
		Signature					Month	Day	Yes			
White-TREATMENT, STORAGE, DISPOS.	hite- TREATMENT, STORAGE, DISPOSAL FACILITY COPY Blue- GENERATOR #3		IP #3 CORV			ON GENERATO						



NON-HAZARDOUS MANIFEST

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NON HAZADDOLIC BARRIETCT	91091105					2. Page 1 of					
3. Generator's Mailing Address:	110/1/03				1		1000				
CLEAN EARTH OF NORTH JERSEY	Generator's Site Addr	Generator's Site Address (If different than mailing):			st Number						
105-115 JACOBUS AVENUE		(v. anverence arani mana		W	/MNA	51	25691				
		一一一一一一一一一一一			B. State	State Generator's ID					
KEARNY NJ 07032					Till Lawre C	ounc. ator					
. Generator's Phone: 973-344-4004											
5. Transporter 1 Company Name WMPA Hauling Co	6. U	S EPA ID Number									
10 1				C. State Transporter's ID							
DO119 11 10 VICE 14				D. Transporter's Phone							
7. Transporter 2 Company Name	8. U	EPA ID Number		Macini Angenta Nagyarte Marie ayar a							
		EPA D. Number				E. State Transporter's ID					
				F. Transporter's Phone G. State Facility ID H. State Facility Phone							
9. Designated Facility Name and Site Address	10. L	IS EPA ID Number									
TULLYTOWN RESOURCE RECOVERY FACILITY 200 BORDENTOWN ROAD											
TULLYTOWN, PA 19007											
PERMIT# 101494				11. State 1	active Filone		1.5				
GROWS NORTH LANDFILL											
1000 NEW FORD MILL ROAD											
MORRISVILLE, PA 19067											
PERMIT# 101680											
1. Description of Waste Materials			ntainers	13. Total	14. Unit		Misc. Comme	ents			
a. Stabilized Waste		No.	Туре	Quantity	Wt./Vol.		THIS COLLINA				
. Stabilized Waste		1	1-	1 Klaim	165	Th-	27				
			RT	47,950	103	283	0.1				
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		Marin July 19	E politica		6 MAY 2 201 11	1000					
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			7.7	12171							
				0.0							
WM Profile #	OD BANKING SERVICE			A GARAGE		40 to 100	119.55				
			State .	- 14.5757 -1							
		- Maria	- Mari		CHARLET VIJ						
WM Profile #		Pile St. Control									
. Additional Descriptions for Materials Listed Abov		v 6:			435		35-965				
- Additional Descriptions for Materials Listed Aboy	/e	K. Disposa	I Location								
		C-II									
		Cell				Level					
5. Special Handling Instructions and Additional Infor		Grid									
DIN 47 1563	2 A5408	IR									
urchase Order #		CY CONTACT / PHON	E NO.:	Eileen Field	973-344-4004						
								-			
5. GENERATOR'S CERTIFICATE:					4. 4.						
	e not hazardous wastes as def	med by CLV Laif 50T	or any appi	icable state la	w, have been f	ully and ac	curately				
hereby certify that the above-described materials an	e not hazardous wastes as def	cording to applicable	regulations			Month	Day	1			
 GENERATOR'S CERTIFICATE: hereby certify that the above-described materials are escribed, classified and packaged and are in proper or inted. Name 	condition for transportation ac	cording to applicable	e regulations	7			Day	1			
hereby certify that the above-described materials ar escribed, classified and packaged and are in proper o	Signature "Or	cording to applicable behalf of	- /				224-1				
hereby certify that the above-described materials an escribed, classified and packaged and are in proper or rinted.Name	Signature "Or	cording to applicable behalf of	regulations			142	8-1	16			
hereby certify that the above-described materials an escribed, classified and packaged and are in proper or rinted.Name	Signature "Or aterials	cording to applicable behalf of	- /			140	31	16			
nereby certify that the above-described materials an ascribed, classified and packaged and are in proper of inted. Name 7. Transporter 1 Acknowledgement of Receipt of Ma	Signature "Or	cording to applicable behalf of	- /		در		Day	16			
nereby certify that the above-described materials an escribed, classified and packaged and are in proper of inted. Name 7. Transporter 1 Acknowledgement of Receipt of Marchael Name	Signature "Or aterials Signature "Or aterials Signature	cording to applicable behalf of	- /		در	140	Day	16			
nereby certify that the above-described materials are escribed, classified and packaged and are in proper or inted. Name 7. Transporter 1 Acknowledgement of Receipt of Maprinted Name 3. Transporter 2 Acknowledgement of Receipt of Ma	Signature "Or aterials Signature aterials	cording to applicable behalf of	- /		ىر	140	Day	Y			
ereby certify that the above-described materials an scribed, classified and packaged and are in proper of inted. Name 1. Transporter 1 Acknowledgement of Receipt of Ma	Signature "Or aterials Signature "Or aterials Signature	cording to applicable behalf of	- /		در	140	Day	E			
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nereby certify that the above-described materials and escribed, classified and packaged and are in proper or inted.Name 7. Transporter 1 Acknowledgement of Receipt of Mary Printed Name 8. Transporter 2 Acknowledgement of Receipt of Mary Printed Name 9. Certificate of Final Treatment/Disposal	Signature "Or aterials Signature Signature Signature Signature Signature	cording to applicable	in t		در	Month Month	Day	Y			
nereby certify that the above-described materials and escribed, classified and packaged and are in proper or inted.Name 7. Transporter 1 Acknowledgement of Receipt of Manager Printed Name 8. Transporter 2 Acknowledgement of Receipt of Manager Printed Name 9. Certificate of Final Treatment/Disposal ertify, on behalf of the above listed treatment facility	Signature "Or aterials Signature "Or aterials Signature Signature Signature	cording to applicable	in t		ved in complian	Month Month	Day	Y			
nereby certify that the above-described materials and escribed, classified and packaged and are in proper or inted.Name 7. Transporter 1 Acknowledgement of Receipt of Market Name 8. Transporter 2 Acknowledgement of Receipt of Market Name 9. Certificate of Final Treatment/Disposal ertify, on behalf of the above listed treatment facilitingulations, permits and licenses on the dates listed all	Signature "Or aterials Signature Signature Signature Signature aterials Signature ty, that to the best of my know bove.	cording to applicable, behalf of	scribed wast		ged in complian	Month Month	Day				
nereby certify that the above-described materials are escribed, classified and packaged and are in proper of inted. Name 7. Transporter 1 Acknowledgement of Receipt of Maprinted Name 8. Transporter 2 Acknowledgement of Receipt of Maprinted Name 9. Certificate of Final Treatment/Disposal ertify, on behalf of the above listed treatment facility gulations, permits and licenses on the dates listed all	Signature "Or aterials Signature Signature Signature Signature aterials Signature ty, that to the best of my know bove.	cording to applicable, behalf of	scribed wast		ged in complian	Month Month	Day				
nereby certify that the above-described materials and escribed, classified and packaged and are in proper or inted.Name 7. Transporter 1 Acknowledgement of Receipt of Mary Printed Name 8. Transporter 2 Acknowledgement of Receipt of Mary Printed Name	Signature "Or aterials Signature Signature Signature Signature aterials Signature ty, that to the best of my know bove.	vedge, the above-de	scribed wast		ged in complian	Month Month	Day	Y			



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NON-HAZARDOUS MANIFEST	1. Generator's US E	PA ID No.	2. Page :						
	N709912	41105			1	rge .			
3. Generator's Mailing Address:					A Manif	est Number			
CLEAN EARTH OF NORTH JERSE	EY G	ienerator's Site Address	(If different than ma	illing):					
105-115 JACOBUS AVENUE					1	MNA	5.	12568	9
KEARNY NJ 07032					- N 198	B. State	Generato	r's ID	
							- denerate		
. Generator's Phone: 973-344-4004									
5. Transporter 1 Company Name WMF	PA Hauling Co	6. US EF	PA ID Number				San Market		
1)	. , ,				C State 7	ransporter's ID			
40/19/11/COC	14. 146				-	orter's Phone	w Malk	A LOUGHOUS	
7. Transporter 2 Company Name)	8. US EF	A ID Number		D. Halls	orter's Phone	1612115	DESCRIPTION OF	7.000
					E State T	ransporter's ID			
						orter's Phone	200	ATTAC DO	
9. Designated Facility Name and Site A	ddress	10. US E	PA ID Number		1. Iransp	orter's Filone	THE PERSON LES	DOLLAR S	7379
TULLYTOWN RESOURCE RECOVERY FAC	CILITY				G. State F	and the LID			
200 BORDENTOWN ROAD TULLYTOWN, PA 19007		15 miles (15 miles)						Edward A	
PERMIT# 101494					H. State F	acility Phone	E PARTY	A Linear	
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1000 NEW FORD MILL ROAD									
MORRISVILLE, PA 19067 PERMIT# 101680		是2000 FLEET			M Syesile				
				Containers			3584		11.5
11. Description of Waste Materials			No.	Type	13. Total Quantity	14. Unit Wt./Vol.	1.	. Misc. Comm	nents
a. Stabilized Waste			1						
				AT	45/60	1/03	TA.	- 42 -7	
WM Pr	rofile # 034830		11 10000000		1	1 10 0	441 -4 -	0/	
b. Waste harry			300000		E- N		0.7		300
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WM Profile #	Enthapteather bearing					DESCRIPTION OF THE PERSON OF T		-5.00	
c. With the man of the control of th					Liferation				
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d.					A may a	10000			
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WM Profile #									
J. Additional Descriptions for Materials	s Listed Above		K. Dispos	al Location					-17
				ar accuration					
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			Grid	AGENT IN			LCVCI	1	
15. Special Handling Instructions and Ad	ditional Information B	BOX#							
DIM75 19	035 A	TYYOF							
Purchase Order#	Action Paris of the Control of the C		CONTACT / PHO	NE NO .	- F1 F1-1-1				
16. GENERATOR'S CERTIFICATE:		LIVIENGENCT	CATACI / PHUI	NE NO.:	Elleen Field	973-344-4004			r
	l matarial								
I hereby certify that the above-described described, classified and packaged and are printed Name	re in proper condition f	or transportation	by CFR Part 26	1 or any appl	icable state la	w, have been f	ully and ac	curately	
Printed Name	e in proper condition in	Signature "On bel	aing to applicable	le regulation	S. /		1,319		
JUSTINE FARM	ULMM!	Signature Off De		ein	U		Month	Day	Ye
17. Transporter 1 Acknowledgement of F	Receipt of Materials	1		The Samuel	bonney.		14	041	14
Printed Name	19/2 19/2 20 20	Signature							
N/ SAIK	4014111	Signature		101	7.4	7.1	Month	Day	Yea
8. Transporter 2 Acknowledgement of R	Receipt of Materials		-		11 40		114	-6	111
Printed Name		Signature							
		Signature				*	Month	Day	Yea
4									
Certificate of Final Treatment/Disposit		The Late Carties	And Burn	THE STATE					
certify, on behalf of the above listed trea	atment facility, that to t	the best of my knowledge	ze, the above-de	scribed was	e was mass	rod in ec!!	an ordet		
	acco notca above.				e was manag	ged in complian	ce with all	applicable	e laws
0. Facility Owner or Operator: Certificat	tion of receipt of non-h	azardous materials cove	ered by this man	ifest.					
Printed Name		Signature	7				Maria		
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	1. Generator's US E	EPA ID No.	Manifest Doc	No.	2. Page 1	of			
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11. Description of Waste Materials			12.0	Containers	13. Total	14. Unit			3000
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16. GENERATOR'S CERTIFICATE:									
I hereby certify that the above-described in	materials are not haz	ardous wastes as define	ed by CFR Part 26	1 or any ann	licable state la	u have been f	مم اممد بدالية	arrantali.	
described, classified and packaged and are	e in proper condition	for transportation acco	rding to applicabl	le regulation	is.	, nave been i	uny ariu ac	curatery	
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3. Generator's Mailing Address:		, , , ,			A \$4	111			
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11. Description of Waste Materials				ontainers	13. Total	14. Unit	T		
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Pink- FACILITY USE ONLY

Blue- GENERATOR #2 COPY Gold-TRANSPORTER #1 COPY

Yellow- GENERATOR #1 COPY

Finnegan, Ann

From:

Lynn L. Bergeson < lbergeson@lawbc.com>

Sent:

Wednesday, May 03, 2017 4:20 PM

To:

Finnegan, Ann

Subject:

Estimated Costs

Hello Ann:

In response to your question, ConEd offers the following estimated costs for the corrective measures that have been identified:

- Updated yellow tag procedure training: \$72,000
- Training on new manifest procedure for comingled PCB wastes: \$2500
- Update to internal electronic tracking system and employee training for coal tar wrap: \$14,000
- Additional sampling of the solid waste piles at the Farrington flush facility from August 2016 through the end of 2017: \$6,500.

The total estimated cost for these corrective actions is \$95,000.

Please let us know if you need any additional information.

Thank you,

Lynn

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC

2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037 T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com March 13, 2017

Via E-Mail

Ms. Ann Marie Finnegan TSCA Enforcement Coordinator U.S. Environmental Protection Agency Region 2 2890 Woodbridge Avenue Mail Code MS105 Edison, NJ 08837-3679

Dear Ann:

On behalf of Consolidated Edison Company of New York, Inc. (Con Edison) we wish to thank you and your colleagues for a productive meeting in your offices on February 15, 2017. During that meeting, you requested that Con Edison prepare brief summaries of the corrective measures it has implemented to address the four instances of alleged non-compliance with certain Toxic Substances Control Act (TSCA) polychlorinated biphenyl (PCB) regulations that the U.S. Environmental Protection Agency (EPA) has asserted. These summaries, and supporting materials, are attached to this letter. Attached as Attachment D is an invoice and related documents for the disposal of the comingled PCB and non-PCB waste that was transported to Cycle Chem on July 21, 2016. Attached as Attachment E is an invoice related to the disposal of waste from M18077. As the invoices contain confidential and proprietary pricing and contract information, Con Edison is claiming the invoices as TSCA Confidential Business Information and the documents are so marked. We request that EPA maintain this status.

As we discussed at our meeting, Con Edison takes its environmental compliance responsibilities seriously and is proud of the extraordinarily devoted team of professionals tasked with ensuring Con Edison's large and complicated power system is running optimally and in compliance with applicable laws and regulations. Con Edison believes the measures identified in the attached materials make the Company's day-to-day operations all the stronger, and address comprehensively the deficiencies identified by EPA.

Please let me know if you have any questions.

Sincerely,

Lynn L. Bergeson

Attachments

ooW ph

Subject: M18077 Non-TSCA Manifesting and Disposal Corrective Action Summary

To address this incidence of noncompliance with internal requirements related to the management of TSCA regulated PCBs, Con Edison has provided and/or arranged for updated training on Con Edison's General Environmental, Health and Safety Instruction E03.06 titled "Environmental Tagging Underground and Overhead Structures," which has been given to relevant employees in electric operations and contractor personnel who assist with flushing and cleaning Con Edison underground structures. This Instruction prescribes the Company's Yellow Tag Procedure used to identify underground structures with open spills, including PCB spills, and the procedures for obtaining information on the nature of such spills. This training will be given to new employees and contractors tasked with this function and on an annual basis thereafter.

Subject: <u>Corrective Action to Indicate TSCA-Regulated Material on Manifests Due to Contact with PCB Waste</u>

To improve manifesting of comingled PCB wastes when non-PCB waste from an underground structure or other point of generation comes in contact with regulated PCB waste from a separate Con Edison underground structure or point of generation in a Con Edison owned or controlled tanker truck, Con Edison shall, at the time when such wastes are comingled, insert the following description, or similar notation, in Box 14 on such Uniform Hazardous Waste Manifest (Form Approved OMB No. 2050-0039) which does not already identify PCB Wastes:

Manage as TSCA regulated material due to contact with PCBs in shipment as indicated on manifest # _____ (insert the manifest number of the regulated PCB waste manifest).

Subject: Coal Tar Wrap Storage Corrective Action Summary

To further compliance with the EPA approval allowing Con Edison to store pipe coated with coal tar wrap that may contain 50 ppm or greater PCBs for up to 180 days, Con Edison has completed the following actions:

- 1) Revised the inspection form to add the required shipment date in a manner that is prominently displayed on the form;
- 2) Added "ship by" date label on roll-off containers with coal tar wrapped gas pipe;
- 3) Re-trained relevant employees on Con Edison's General Environmental, Health and Safety Instruction E07.24 titled "Handling of PCB Solid Applications," which addresses the handling of coal tar wrap;

- 4) Enhanced the internal electronic tracking system to provide automatic escalating notifications of any upcoming expiration of the 180 day storage period; and
- 5) Arranged for notifications from transporter to pick up roll-off 150 days after delivery of roll-off container.

For your reference, attached as Attachment A, is a copy of the updated inspection form and a picture of a roll-off container containing coal tar wrapped gas pipe with the new "ship by" date label, attached as Attachment B.

Subject: <u>Farrington Street Flush Truck Waste Transfer Facility Corrective Action</u>

To augment Con Edison's waste characterization efforts associated with the solid waste piles at the Company's flush truck facilities, including the identification of PCBs, Con Edison has established a new sampling protocol. The new sampling protocol includes taking composite samples at two intervals: first when the solid waste piles are half full and then again when the solid waste piles are full. The previous protocol involved taking composite samples after the solid waste piles were deemed full. In addition, a backhoe will be used as a best management practice to obtain samples from the middle and back of the piles when operationally feasible. This new sampling protocol went into effect on August 11, 2016 at Farrington and is now in effect at the Company's other flush truck facilities.

A copy of the revised protocol, "Sampling Requirements for Solid Debris Piles" from Con Edison's General Environmental, Health and Safety Instruction E04.03 titled "Flush Truck Facilities Operation and Maintenance," is attached for your reference as Attachment C.

Attachments

Attachment A

Stores Operations Weekly Inspection Log

PCB-Contaminated Coal Tar Wrap Waste in 20 Cubic Yard Roll-Off Co

FA	CILITY: _								AD	DRESS: :			
1)	Start a ne	UCTIONS: ew log form v	vhen a ne	w container	is received								
2)	Containe	r must be pic	cked up fo	or disposal v	vithin 180 da	ys from	accumul	ation start o	date (***CALL VE	NDOR FOR	PICKUP	AT 150 DA	YS**
3) 4)	11113 10111	i illuət be kei	ulala vva	renouse On	ICE TOF THEE	Veare tr	and the d	ato the was	te is picked up for Loose Pieces of	au diamant			
5)	Every con	manner must	nave a un	nque io nun	iber. Create	an Emis	containe	ar wrap or i	Loose Pieces of Ising wastestrea	m "Sonno	minated	Coal Tar W	rap
6)	Contact S	Supervisor o	T EH&S 10	r help or wit	th any conce	rns					anu ns	t below.	
	S CONTA			DATE CON	TAINER REC	EIVED: _		ou	T OF SERVICE D	ATE:			
DA		INER RECEI	VED + 150	DAYS =		DA	TE CONT	AINER REC	EIVED + 180 DA	YS =	,		
Inspection Date	"Coal Tar Warp" sign posted on location? Y/N	Aisle space around container OK for inspection & emergency response? Y/N	PCB M _L labels on all 4 sides of container? Y/N	"Non Hazardous PCB Bulk Product Waste" signs on all 4 sides of container? Y/N	Container properly covered to prevent precipitation from entering? Y/N	Container liner in place? Y/N	Container free of any liquids? Y/N	Container free of corrosion that could result in leakage?	Container free of leaks? Y/N (If container leaking, report spill to EH&S control desk immediately at 212.580-8383)	Total volume of waste in container (empty, % full, ½ full, % full, % full, % full, % full, % full, full)	Move by date on label? Y/N	Container remaining in service? Y/N (if NO, enter details below)	Inspector Initials
luspe	"Coal poster	Aisle space container C inspection emergency response?	PCB N 4 side: Y/N	"Non I PCB B Waster sides o	Contai covere precip enterir	Contai place?	Contai	Contai corros result i Y/N	Container fre leaks? Y/N (If container report spill to control desk immediately 580-8383)	Total ve waste i (empty, % full, f	Move b	Contair in servi NO, ent below)	Inspect
									*				
List co	orrective action	s taken for any que	estions answer	rd "NO":									
Date R	emoved For Di	isposal:		Disposal F	Facility:			_					

Attachment B

GENERAL ENVIRONMENTAL, HEALTH AND SAFETY INSTRUCTION E04.03

ATTACHMENT 2: SAMPLING REQUIREMENTS FOR SOLID DEBRIS PILES

Solid debris piles must be sampled when the pile is half full and when it is completely full using the same sampling protocol. Composite samples will consist of a minimum of 9 grab sample locations. Sampler must utilize a sampling tool (e.g. tier) to obtain solids from varying depths. Utilize a backhoe or other tool/means to obtain samples from the middle and back of piles.

$\stackrel{\wedge}{\sim}$	\Rightarrow	$\stackrel{\wedge}{\sim}$
\Rightarrow	\Rightarrow	\Rightarrow
\Rightarrow	\Rightarrow	$\stackrel{\wedge}{\sim}$

TOP VIEW OF SOLID DEBRIS PILE

= grab sample locations used to make up composite

Finnegan, Ann

From:

Finnegan, Ann

Sent:

Monday, February 13, 2017 2:44 PM

To:

lbergeson@lawbc.com

Subject:

information request

Lynn,

I apologize for springing this on you at the last moment, but can I ask that you bring some cost information to our meeting?

Specifically, EPA would like to know ConEd's cost of disposal for the material that was :

- (1) sent to Cycle Chem on the eight manifests that are the topic of our discussion (7-16-16 to 7-19-16). It was a total of 791 kg of material that was "converted" to 91,625 kg through comingling and stabilization and then disposed at the GROWS facility(s) in PA
- (2) sent to Clean Earth on the sixteen manifests that are the topic of our further discussion (10-13-16 to 10-20-16). It was a total of 13,791 kg that was "converted" through comingling and stabilization and then disposed at the GROWS facility(s) in PA. I do not yet have clear copies of the manifests from Clean Earth to GROWS, and so do not know the full final amount of material disposed. If ConEd has these manifests, I would ask that you bring them along also.

If you have questions on this request, please feel free to contact me. Ann

Ann Finnegan, TSCA Enforcement Coordinator USEPA Region 2 2890 Woodbridge Avenue Edison, NJ 08837 (732) 906-6177 fax (732) 321-6788 finnegan.ann@epa.gov

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